

## PROCEEDINGS AGAINST JOHN J. FOGARTY FOR CONTEMPT OF THE SENATE

FEBRUARY 21 (legislative day, JANUARY 29), 1951.—Ordered to be printed

Mr. KEFAUVER, from the Special Committee to Investigate Organized Crime in Interstate Commerce, submitted the following

### R E P O R T

[To accompany S. Res. 81]

The Special Committee to Investigate Organized Crime in Interstate Commerce as created and authorized by the United States Senate by Senate Resolution 202, Eighty-first Congress, second session, caused to be issued a subpoena to John J. Fogarty of New Orleans, La. The said subpoena directed John J. Fogarty to be and appear before the said committee on January 25, 1951, at room 245, Main Post Office Building, New Orleans, La., then and there to testify touching matters of inquiry committed to said committee and not to depart without leave of said committee. The date of issuance of the subpoena was the 13th day of January 1951. Attendance pursuant to said subpoena was had on January 25 and 26, 1951, at which time the witness appeared. The subpoena served upon said John J. Fogarty is set forth as follows:

UNITED STATES OF AMERICA

CONGRESS OF THE UNITED STATES

To JOHN J. FOGARTY, *New Orleans, La., Greeting.*

Pursuant to lawful authority, you are hereby commanded to appear before the Special Committee to Investigate Organized Crime in Interstate Commerce, of the Senate of the United States, on January 25, 1951, at 9:30 a. m., at their committee room, 245, Main Post Office Building, New Orleans, La., then and there to testify what you may know relative to the subject matters under consideration by said committee. And bring with you the documents required as per the attached sheet. [The following appeared on the attached sheet:] And bring with you all books, records, and supporting documents relating to your income and disbursements from January 1, 1944, to date; all records relating to assets and/or interest in property, either real, personal or mixed; or interest in legal entities during the aforesaid period; and copies of Federal income-tax returns during the aforesaid period.

All books, records, and supporting documents relating to assets, income, and disbursements from January 1, 1944, to date of Daily Sports News, Gulf Stream Printers, and Fogarty & Neuhauser including copies of Federal income-tax returns during the aforesaid period and records relating to extent of participations and identity of persons in interest directly or indirectly during the aforesaid

period; including all records relating to identity and location of subscribers, customers, and/or "drops" from January 1, 1949.

Hereof fail not, as you will answer your default under the pains and penalties in such cases made and provided.

To George Butler to serve and return.

Given under my hand, by order of the committee, this 13th day of January, in the year of our Lord one thousand nine hundred and fifty-one.

ESTES KEFAUVER,  
*Chairman, Special Committee To Investigate Organized  
Crime in Interstate Commerce.*

The said subpoena was duly served as appears by the return made thereon by George Butler, who was duly authorized to serve the said subpoena. The return of the service by the said George Butler, being endorsed thereon, is set forth as follows:

JANUARY 15, 1951.

I made service of the within subpoena by personal service on the within-named John J. Fogarty, at his office, fifth floor, Balter Building, 404 St. Charles Avenue, New Orleans, La., at 2 p. m. on the 15th day of January 1951.

GEORGE BUTLER.

The said John J. Fogarty, pursuant to said subpoena and in compliance therewith, appeared before the said committee to give such testimony as required by virtue of Senate Resolution 202, Eighty-first Congress, second session. John J. Fogarty, having appeared as a witness and having been asked questions, which questions were pertinent to the subject matter under inquiry, made answers as appeared in the records of the hearing on January 25, 1951, at room 245, Main Post Office Building, New Orleans, La., which record is annexed hereto and made a part hereof and designated "Annex I." The said John J. Fogarty, having appeared as a witness, arbitrarily refused to produce the books and records called for in the subpoena set forth above.

As a result of John J. Fogarty's refusal to produce books and records and refusal to answer the questions pursuant to the said inquiry propounded to John J. Fogarty pertinent to the subject matter which under Senate Resolution 202, Eighty-first Congress, second session, the said committee was instructed to investigate, and the refusal of the witness to produce books and records and to answer questions, as set forth in annex I, is a violation of the subpoena under which the witness was directed to appear and produce books and records and to answer pertinent questions to the subject under inquiry, and his persistent and illegal refusal to answer the aforesaid questions and to produce books and records deprived the committee of necessary and pertinent testimony and places this witness in contempt of the United States Senate.

The subcommittee hearing at which said witness refused to produce books and records and to answer said questions was duly authorized by a resolution of the said committee, as set forth below:

SPECIAL COMMITTEE TO INVESTIGATE ORGANIZED CRIME IN INTERSTATE  
COMMERCE

MINUTES OF A COMMITTEE MEETING, DECEMBER 22, 1950

At an executive session of the committee held on December 22, 1950, the following resolution was adopted:

"Resolved, That the chairman of this committee be and hereby is authorized at his discretion to appoint one or more subcommittees of one or more Senators, of whom one member shall be a quorum for the purpose of taking testimony and

all other committee acts, to hold hearings at such time and places as the chairman might designate, in furtherance of the committee's investigations of organized crime, in the vicinities of the cities of Tampa, Fla., and New Orleans, La."

ESTES KEFAUVER, *Chairman.*  
HERBERT R. O'CONOR.  
LESTER C. HUNT.

In accordance with the resolution of December 22, 1950, the chairman designated himself as a subcommittee of one to swear witnesses and to hear testimony at New Orleans, La., on January 25 and 26, 1951.

After reviewing the testimony and other facts as set forth herein, the committee adopted a resolution, as set forth below:

SPECIAL COMMITTEE TO INVESTIGATE ORGANIZED CRIME IN INTERSTATE  
COMMERCE

MINUTES OF A COMMITTEE MEETING, JANUARY 29, 1951

The committee met at 1 p. m., in room 457, Senate Office Building.

There were present the chairman and Senators Hunt, Tobey, and Wiley.

The chairman presented to the committee the minutes of the committee meeting of January 25 and 26, 1951, together with a resolution made on December 22, 1950. The chairman stated to the committee that the chairman had designated a subcommittee to hear continued testimony in connection with organized crime in the city of New Orleans, La., pursuant to the resolution of December 22, 1950, the subcommittee consisting of the chairman.

The chairman then presented to the committee the minutes of said subcommittee meeting of January 25 and 26, 1951, held in room 245, Main Post Office Building, New Orleans, La.

The chairman stated to the committee that the witness, John J. Fogarty, repeatedly, consistently, and arbitrarily had refused to produce books and records and to answer questions put to him throughout counsel and chairman's examination of said witness on January 25 and 26, 1951, and that his refusal therefore was improper and contemptuous.

The chairman presented to the committee a draft report on the entire matter for the committee's consideration and the committee duly adopted the said report and instructed the chairman to present said report to the United States Senate.

Therefore, upon motion of Senator Hunt, duly seconded by Senator Tobey, it was duly resolved that the committee present to the United States attorney for the eastern district of Louisiana to proceed against the said John J. Fogarty in the manner and form provided by law.

ANNEX I

INVESTIGATION OF ORGANIZED CRIME IN INTERSTATE  
COMMERCE

UNITED STATES SENATE,  
SPECIAL COMMITTEE TO INVESTIGATE  
ORGANIZED CRIME IN INTERSTATE COMMERCE,  
*New Orleans, La., Thursday, January 25, 1951.*

The committee met at 9:30 a. m. Thursday, January 25, 1951, in room 245, Main Post Office Building, Senator Estes Kefauver (chairman) presiding.

Present: Senator Kefauver.

Also present: Downey Rice, Esq., associate counsel; Alfred M. Klein, associate counsel; George Martin, investigator; and Ralph W. Mills, investigator.

STATEMENT OF JOHN J. FOGARTY, 3509 NASHVILLE AVENUE, NEW ORLEANS, LA.  
(REPRESENTED BY WARREN O. COLEMAN, Esq.)

(Mr. Fogarty was sworn by the chairman.)

The CHAIRMAN. All right, Mr. Coleman.

Mr. COLEMAN. I would like to reserve the same thing that I reserved before. I'd like to read this statement into the record. I demand an attendance of a legal quorum of this committee before proceeding further. Should it be here ruled that I am not entitled to this relief or that the member or members present now are sufficient to constitute a quorum to compel me to proceed, I do so under protest and reserve all of my rights in the premises.

The CHAIRMAN. All right, sir. Your statement is in the record and duly noted.

Mr. COLEMAN. Yes, sir.

The CHAIRMAN. All right. Let's get to the point.

Mr. RICE. Now, your name is John J. Fogarty?

Mr. FOGARTY. Yes, sir.

Mr. RICE. How do you spell that, sir?

Mr. FOGARTY. F-o-g-a-r-t-y.

Mr. RICE. Where do you live, Mr. Fogarty?

Mr. FOGARTY. 3509 Nashville Avenue, New Orleans.

Mr. RICE. What is your business?

Mr. FOGARTY. I am owner of the Daily Sports News.

Mr. RICE. Now, sir, how long have you been in the sporting news business?

Mr. FOGARTY. Thirty-two years.

Mr. RICE. Thirty-two years. Did you know John J. Regan, John Regan, John M. Regan?

The CHAIRMAN. James Regan?

Mr. FOGARTY. I think you have the wrong name.

Mr. RICE. James Regan, from Chicago.

Mr. FOGARTY. I know of Mr. Regan; yes.

Mr. RICE. You know of him?

Mr. FOGARTY. Yes.

Mr. RICE. Were you ever in business with him?

Mr. FOGARTY. No, sir.

Mr. RICE. Do you know what business he was in?

Mr. FOGARTY. I think he was a newspaperman at one time. I think he was connected with—

Mr. RICE. Wasn't he connected with a wire service?

Mr. FOGARTY. That's right.

Mr. RICE. And weren't you connected with the wire service at the same time?

Mr. FOGARTY. I own the wire service here in New Orleans.

Mr. RICE. I am talking about in Chicago.

Mr. FOGARTY. No, sir.

Mr. RICE. Now, sir, was Mr. Regan ever in business with you down here in New Orleans?

Mr. FOGARTY. No, sir.

Mr. RICE. Were you ever in the "run-down sheet" business?

Mr. FOGARTY. No, sir.

Mr. RICE. Mr. Regan, at one time made the statement that from 1939 to 1943 he was in the "run-down sheet" business in New Orleans, also Gulfstream. You had sort of an interest in the over-all picture.

Mr. FOGARTY. I know nothing of that.

Mr. RICE. When you knew him, did you know him to be down here at all?

Mr. FOGARTY. I don't know. I couldn't answer that.

Mr. RICE. Where did you know him?

Mr. FOGARTY. I couldn't answer that because I don't know.

Mr. RICE. Where did you know him?

Mr. FOGARTY. Mr. Regan?

Mr. RICE. Yes.

Mr. FOGARTY. From Chicago.

Mr. RICE. Were you up there?

Mr. FOGARTY. In Chicago?

Mr. RICE. Yes.

Mr. FOGARTY. No; I was here in New Orleans.

Mr. RICE. Where did you meet Mr. Regan?

Mr. FOGARTY. I had bought service from—I don't think it was the Continental Press at that time.

Mr. RICE. It was Nation Wide.

Mr. FOGARTY. Nation Wide.

Mr. RICE. You bought service from Regan when he was with Nation Wide in Chicago. Where did you transact your business with him?

Mr. FOGARTY. Over the telephone.



Mr. RICE. Did you ever meet him in person?

Mr. FOGARTY. No, sir.

Mr. RICE. Did he have any interest in your operation at any time?

Mr. FOGARTY. No, sir.

The CHAIRMAN. Did he own any interest in the fixtures or in the lease or the place that you operated here in New Orleans?

Mr. FOGARTY. No, sir.

Mr. RICE. Did Nation Wide have any interest?

Mr. FOGARTY. No, sir. It was personally owned.

Mr. RICE. By yourself?

Mr. FOGARTY. Yes.

Mr. RICE. What was the name of your company then?

Mr. FOGARTY. I think it was the Crescent City Publishing Co.

Mr. RICE. When did that go out of business?

Mr. FOGARTY. I can't remember.

Mr. RICE. Approximately.

Mr. FOGARTY. I can't remember.

Mr. RICE. How many businesses do you have now?

Mr. FOGARTY. Just that one.

Mr. RICE. What is the name of it?

Mr. FOGARTY. Daily Sports News.

Mr. RICE. When did that start?

Mr. FOGARTY. On November, 19—I can't remember that, either. That's quite a while ago. You see I am 32 years in this business.

Mr. RICE. You are 32 years in the business?

Mr. FOGARTY. That's right.

Mr. RICE. Well, was it more than 10 years ago?

Mr. FOGARTY. No; I don't think it was that long ago.

Mr. RICE. Would it refresh your recollection to say that you, in 1946, had a lawsuit in which you said you and your son had been in the business for 4 years previous, which would make it in 1942, under the name of Daily Sports News?

Mr. FOGARTY. I can't remember.

Mr. RICE. I show you a paper and ask you if you know what it is?

(Document examined by the witness.)

Mr. COLEMAN. There is the date of it, down there.

Mr. KLEIN. What?

Mr. RICE. What is it? Isn't that a lawsuit?

The CHAIRMAN. State what it purports to be.

Mr. COLEMAN. That was an injunction.

Mr. FOGARTY. "John J. Fogarty and J. E. Fogarty."

Mr. RICE. Now, then, inviting your attention to this statement here, what does that say? Read this to here.

(Mr. Fogarty examines document.)

Mr. RICE (reading): "The petition of John J. Fogarty and J. E. Fogarty, both of full age and residents of this city, doing business under the trade name of Daily Sports News in this city respectfully show that they are and have been for 4 years past engaged in this city in the publication twice daily of a journal entitled "Daily Sports News." That's dated in 1946.

So, therefore, you say in this pleading you have been engaged in that business since 1942. Isn't that right?

Mr. FOGARTY. If it says that I guess it is right. I don't remember.

Mr. RICE. Is it right or wrong? You are the witness.

Mr. FOGARTY. I can't remember.

Mr. RICE. What was the reason for that case? Tell us about that.

Mr. FOGARTY. Well, on advice of counsel, I respectfully decline to answer the question on the ground that it may tend to incriminate me under the laws of the State of Louisiana and the United States Government, especially the lottery mail statute, the United States conspiracy laws, and the income-tax laws.

Mr. COLEMAN. May I talk to him a minute?

The CHAIRMAN. Yes.

Mr. COLEMAN. I just told him I thought he could answer that.

The CHAIRMAN. Well, I think if he filed a petition and signed his name to it, I don't see why—

Mr. COLEMAN. He is just confused.

The CHAIRMAN. We don't want to have any trouble with you, Mr. Fogarty.

Mr. COLEMAN. I think he is a little confused.

The CHAIRMAN. If you filed a petition and signed your name to it, it is a public record.

Mr. RICE. The statutory period has operated on it anyhow. We'd like to know what happened at that time. What was going on; what caused that situation?

Mr. FOGARTY. I think that the telephone company had come into my place of business after working hours in the afternoon and removed the telephones I had in there, and I took an injunction against the telephone company.

Mr. COLEMAN. No; this is the one against the city.

Mr. FOGARTY. Oh, that was when they tried to raid my sports sheet, where I print my sports sheet.

Mr. RICE. Yes; what happened?

Mr. FOGARTY. I took an injunction against them.

Mr. RICE. All right. Who raided it?

Mr. FOGARTY. The city police.

Mr. RICE. And what did they take?

Mr. FOGARTY. They took—that I don't remember. Whether they took my equipment—I was unable to print my sheet.

Mr. RICE (handing document to counsel). Show it to him, Mr. Counsel. They took the telephone?

Mr. FOGARTY. Yes. They took some telegraph instruments and transmitters and later returned them to me, and agreed not to touch my office any longer, after I got the injunction.

Mr. RICE. All right, sir. This is your pleading. You say here that you have been in business for 4 years; that on August 21, 1946, the city police entered the premises of American Printing Co., 424 Camp, which is concerned with the daily printing business and prints a Daily Sports News; that there in that premises, essential to the operation of business and more especially said journal was one Morse telegraph resonator, one 8-A high-speed teletype, one sending, one receiving telemeter and one en rouse type wire. Now the police went on and took that equipment. What was that equipment being used for? In connection with printing?

Mr. FOGARTY. That's all.

Mr. RICE. That's all?

Mr. FOGARTY. That is all printing of my Daily Sports News.

Mr. RICE. What was coming in over these 8-A printers? The ticker?

Mr. FOGARTY. Racing information.

Mr. RICE. Where was that coming from?

Mr. FOGARTY. Well, I don't know. We have—where the other end terminated. I think it was in New York or Chicago. I don't know.

Mr. RICE. Who were you buying it from? Who have you always bought it from?

Mr. FOGARTY. I refuse to answer that question.

Mr. RICE. You refuse to answer where you were buying your information in 1942?

Mr. FOGARTY. Yes; because I can't remember.

Mr. COLEMAN. If you don't remember you can say that. You don't have to say it is refused.

The CHAIRMAN. Well, it is difficult for me to think he can't remember who he paid for his information.

Mr. COLEMAN. When was that?

Mr. RICE. This is 1946. Four years ago.

Mr. FOGARTY. I can't remember.

Mr. COLEMAN. Five years ago.

Mr. RICE. All right, sir. Who are you buying your information from now?

Mr. FOGARTY. Continental Press Service.

Mr. RICE. How long have you been buying from Continental?

Mr. FOGARTY. I can't remember.

Mr. RICE. Five years?

Mr. FOGARTY. I can't remember.

Mr. RICE. Do you remember when you started?

Mr. FOGARTY. No, sir; I don't.

Mr. RICE. Can you tell from your records?

Mr. FOGARTY. I probably could.

Mr. RICE. Do you have your records with you?

Mr. FOGARTY. No, sir.

Mr. RICE. Didn't the subpoena call for the production of your records?

Mr. FOGARTY. Yes, sir.

Mr. RICE. And did you produce them?

Mr. FOGARTY. No, sir.

Mr. RICE. We will call on you to advise the committee how long you have been buying the service to Continental.

Mr. COLEMAN. You want to know how long?

Mr. RICE. Yes, sir.

The CHAIRMAN. All right. Let's get on.

Mr. RICE. Did you ever buy the service from anyone else?

Mr. FOGARTY. I refuse to answer that question.

Mr. RICE. On what ground?

Mr. FOGARTY. That it may incriminate me.

Mr. RICE. Of what offense? State offense?

Mr. FOGARTY. Both State and Federal.

Mr. RICE. Both State and Federal?

Mr. FOGARTY. Yes.

Mr. RICE. How long ago did that offense occur about which you speak?

Mr. FOGARTY. I don't remember.

Mr. RICE. You don't remember?

Mr. FOGARTY. I don't remember, no.

Mr. RICE. Do you have a particular offense in mind?

Mr. FOGARTY. May I speak to my attorney?

The CHAIRMAN. Mr. Fogarty, to get down to it, during a certain time did you buy your service from the Trans-America outfit out of Chicago, and what we want to know is about what happened to the time you were buying from Continental and Trans-America people came down here and tried to muscle in on you and you had some difficulty with them and finally you consolidated with them. That is the story we want to know about.

Mr. FOGARTY. Well, I refuse to answer that for fear it may incriminate me.

The CHAIRMAN. We hate to have any trouble with you, Mr. Fogarty.

Mr. FOGARTY. I am not looking for trouble, Senator, but I am not going to incriminate myself.

The CHAIRMAN. What is generally known about your operation is important to this committee and I don't know of any Federal offense that you violate in buying news off of a wire service. So I think you might talk with your counsel and see if we can't get along with this hearing.

(Mr. Fogarty confers with counsel.)

Mr. COLEMAN. He is afraid he is making mistakes on dates and things like that.

The CHAIRMAN. We are not so interested in exact dates.

(Mr. Fogarty confers with counsel.)

Mr. RICE. Do you have the answer now, sir?

Mr. FOGARTY. No, sir.

Mr. RICE. All right, sir. Now let me admonish you that it is just as much a contempt to say that you fail to remember when you do remember as it is to refuse to answer.

For how many years have you been receiving your service from Continental Press?

Mr. FOGARTY. I refuse to answer that question. I am afraid it might incriminate me.

The CHAIRMAN. Well, if we are going to have trouble with Mr. Fogarty, we may as well get the record right. I think we could get this story very simply if you want to cooperate with the committee, Mr. Fogarty. I am not advising you what to do, but the question is about how many years you have bought your service from Continental Press or from some other press. I think it is a question I will have to direct you to answer.

Mr. FOGARTY. I refuse to answer for fear of incriminating me.

Mr. RICE. When you say you "refuse to answer for fear it may incriminate" you, is there any indictment outstanding against you?

Mr. FOGARTY. Yes, sir.

Mr. RICE. Are you under indictment?

Mr. FOGARTY. Yes, sir.

Mr. RICE. I understand.

The CHAIRMAN. What indictment are you under?

Mr. COLEMAN. He is under indictment in the State court for conspiracy in furnishing this news to racing books and they charged him with conspiracy to violate the State gambling laws. What he is fearing here, now, is that under

the Federal lottery statute, using the mails for a lottery, that they could do the same thing.

Mr. RICE. Yes.

The CHAIRMAN. Well, of course, we haven't asked anything, Mr. Counsel, about the use of the mails.

Mr. RICE. What is the date of the indictment, approximately?

Mr. COLEMAN. That indictment is a good ways back. I don't know the date of it. It must be around the date of that suit.

Mr. RICE. The indictment is still pending?

Mr. COLEMAN. Still pending.

Mr. RICE. Since 1946?

Mr. COLEMAN. That is right.

Mr. RICE. How do you account for that?

Mr. FOGARTY. I don't know. It came up, and there were a lot of technicalities and they haven't bothered us any more. It is open, though.

Mr. RICE. You say the indictment is open?

Mr. COLEMAN. It is open; I looked at it a month or two ago.

The CHAIRMAN. Please get on with the questioning and see what we can get.

Mr. RICE. Now, then, you say at the moment you are receiving your service from Continental?

(No response.)

Mr. RICE. Now; this month.

Mr. FOGARTY. I didn't say that.

Mr. RICE. Do you say that?

Mr. FOGARTY. No. I refuse to answer—

Mr. RICE. Well, are you receiving that?

Mr. FOGARTY. I refuse to answer the question for fear it will incriminate me.

Mr. RICE. You refuse to say where you are getting it now?

Mr. FOGARTY. Yes, sir.

The CHAIRMAN. I will have to direct you to answer that question; where you are getting it.

Mr. FOGARTY. I refuse to answer the question.

The CHAIRMAN. Go ahead.

Mr. RICE. On what ground do you refuse to answer that question?

Mr. FOGARTY. For fear it may incriminate me.

The CHAIRMAN. Let's go on with the questions.

Mr. RICE. In connection with the same indictment?

Mr. FOGARTY. Exactly.

Mr. RICE. Mr. Counsel, would you instruct the witness with respect to the indictment now pending?

Mr. COLEMAN. He is afraid of indictment under the Federal court, under a conspiracy to violate the lottery statute.

Mr. RICE. He anticipates an indictment in the Federal court. Is that correct?

Mr. COLEMAN. He fears Federal indictment.

Mr. RICE. There is no pending indictment in Federal court. Is that correct?

Mr. FOGARTY. Correct.

Mr. RICE. I see. That is your reason for refusing, because you anticipate indictment?

Mr. FOGARTY. That is correct.

Mr. RICE. I will ask the Chair to instruct him.

The CHAIRMAN. He has been directed. You ask the questions and we will get on.

Mr. RICE. Now, sir, at this time, are you furnishing service to any subscribers?

Mr. FOGARTY. I refuse to answer that question for fear it may incriminate me.

The CHAIRMAN. That is by "you," you mean the Daily Sports News. That is what you mean, Mr. Rice?

Mr. RICE. Yes.

Mr. FOGARTY. That is right.

The CHAIRMAN. You refuse to answer that question?

Mr. FOGARTY. That's right.

The CHAIRMAN. You will be directed to answer. Do you refuse to follow the direction?

(No response.)

The CHAIRMAN. Do you refuse to answer even though directed by the chairman to answer?

Mr. FOGARTY. Yes, sir.



The CHAIRMAN. May I ask, to begin with, what is the Daily Sports News? Is it a corporation?

Mr. FOGARTY. It is a partnership.

The CHAIRMAN. Of you and your son?

Mr. FOGARTY. Yes, sir.

The CHAIRMAN. And who else is in the partnership?

Mr. FOGARTY. That's all.

The CHAIRMAN. You own half and your son owns half?

Mr. FOGARTY. Yes.

The CHAIRMAN. What is his first name?

Mr. FOGARTY. J. E. Fogarty.

The CHAIRMAN. All right, Mr. Rice.

Mr. RICE. Who are the employees of the Daily Sports News?

(No response.)

Mr. RICE. Name one.

Mr. FOGARTY. I refuse to answer that for fear it may incriminate them. I refuse to answer the question.

The CHAIRMAN. Do you refuse to answer that question?

Mr. FOGARTY. Yes.

Mr. RICE. On what ground?

The CHAIRMAN. You are directed to answer it.

(No response.)

The CHAIRMAN. Do you refuse to follow the direction of the chairman?

Mr. FOGARTY. Yes.

The CHAIRMAN. Go ahead.

Mr. RICE. Let me ask you if in 1943 you did not have an employee by the name of Steincamp?

Mr. FOGARTY. I refuse to answer that question. I can't remember that far back.

Mr. RICE. Have you ever had an employee by the name of Steincamp?

Mr. FOGARTY. Yes.

Mr. RICE. When?

Mr. FOGARTY. I can't remember.

Mr. RICE. Is he employed by you now?

Mr. FOGARTY. No.

Mr. RICE. How many years ago was it that he left you?

Mr. FOGARTY. I don't remember.

Mr. RICE. Would it refresh your recollection any to tell you that he was on your payroll in 1943 and 1944?

Mr. FOGARTY. I don't remember.

Mr. RICE. Would that be a fair statement?

Mr. FOGARTY. I don't remember.

Mr. RICE. Is that wrong?

Mr. FOGARTY. I don't remember.

Mr. RICE. Now, about Frank E. Stanton; did he ever work for you?

Mr. FOGARTY. I refuse to answer that question for fear it may incriminate me.

The CHAIRMAN. Well, you are ordered to answer that question.

Mr. FOGARTY. I refuse to answer it.

Mr. RICE. Do you know Frank E. Stanton?

Mr. FOGARTY. I refuse to answer that.

Mr. RICE. On what ground?

Mr. FOGARTY. For fear it may incriminate me.

The CHAIRMAN. Well, you will be ordered to answer it.

Mr. FOGARTY. I refuse to answer it.

Mr. RICE. Do you know Ralph Emory?

Mr. FOGARTY. I do not.

Mr. RICE. Did he ever work for you?

Mr. FOGARTY. I don't know him.

Mr. RICE. Do you know Anthony Marcello?

Mr. COLEMAN. Anthony Marcello?

Mr. RICE. Anthony Marcello.

Mr. FOGARTY. No, sir; I do not.

Mr. RICE. You don't know Anthony Marcello?

Mr. FOGARTY. Anthony, no.

Mr. RICE. Do you know Carlos Marcello?

Mr. FOGARTY. I refuse to answer that question for fear it may incriminate me.

Mr. RICE. On what grounds?

The CHAIRMAN. Well, let's don't argue about the grounds. You are directed to answer the question.

Mr. FOGARTY. I refuse to answer it.

Mr. COLEMAN. Excuse me; it will be understood it is on the same grounds right through?

The CHAIRMAN. All right.

Mr. RICE. All right. Does Carlos Marcello have any interest in your company?

Mr. FOGARTY. No, sir.

Mr. RICE. Has he ever received any money from your company?

Mr. FOGARTY. I refuse to answer that for fear it may incriminate me.

The CHAIRMAN. You are directed to answer.

Mr. FOGARTY. I refuse to answer.

Mr. RICE. Has Joseph Marcello any interest?

Mr. FOGARTY. I refuse to answer that question for fear it may incriminate me.

The CHAIRMAN. You are directed to answer.

Mr. FOGARTY. I refuse to answer it.

The CHAIRMAN. Now, let's get at this, now: I take it to show the relevancy of this, Mr. Rice, that you are asking these questions because of the allegation, or the indication here that Mr. Fogarty had a company and then that there was a rival wire service set-up.

Mr. RICE. Yes.

The CHAIRMAN. Will you state for the record just the relevancy of these questions and what you are trying to prove so that we can see whether they are pertinent or not?

Mr. RICE. Now then, sir, is it a fair statement to say that prior to 1946 you had no competition in your area in the business you were in; the wire service?

Mr. COLEMAN. Did you understand the question?

Mr. FOGARTY. No.

Mr. RICE. Were there any competing companies? Were you the only one here in that type of business in this area?

Mr. FOGARTY. What year was that?

Mr. RICE. Before 1946.

Mr. FOGARTY. I don't remember that. I can't remember that.

Mr. RICE. You can't remember whether you were ever in competition or not? (No response.)

Mr. RICE. Have you ever had a competing company here with a wire service business?

Mr. FOGARTY. I refuse to answer that question for fear it may incriminate me.

The CHAIRMAN. Now, Mr. Fogarty and Mr. Coleman, can it be stipulated and agreed that when he refuses to answer a question that the chairman has also directed him to answer the question?

Mr. COLEMAN. Yes.

The CHAIRMAN. Do you understand that, Mr. Fogarty?

Mr. FOGARTY. Yes.

The CHAIRMAN. All right. Let's get ahead with the questioning.

Mr. RICE. Would it be a fair statement to say that prior to 1946 you had no competition—from 1944 to 1946?

Mr. FOGARTY. I refuse to answer that question for fear it may incriminate me.

Mr. RICE. That in 1946 a competitive wire service started here under Joe Poretto?

Mr. FOGARTY. I refuse to answer that question.

Mr. RICE. Do you know Joe Poretto?

Mr. FOGARTY. I refuse to answer that question.

Mr. RICE. That several of your customers were lost by you during July and August of 1946?

Mr. FOGARTY. I refuse to answer that question.

Mr. RICE. I will ask you if it is not a fact that Poretto's wire service was known as the Southern News Publishing Co.?

Mr. FOGARTY. I refuse to answer that question.

Mr. RICE. Were you here a few minutes ago?

Mr. FOGARTY. Where?

Mr. RICE. In the courtroom.

Mr. FOGARTY. Yes.

Mr. COLEMAN. He wasn't in here.

Mr. RICE. Did you hear the testimony of the Western Union man?

Mr. FOGARTY. I have been here since 9:30 this morning, but I have been outside.

Mr. RICE. Have you ever heard of Southern News Publishing Co.?

Mr. FOGARTY. I refuse to answer that question.

Mr. RICE. You refuse to answer whether you have ever heard of the Southern News Publishing Co.?

Mr. FOGARTY. That is right.

Mr. RICE. Had you heard of the Southern News Publishing Co. in 1946?

Mr. FOGARTY. I refuse to answer that question.

Mr. RICE. Now, sir, on August 20, 1946, there was a raid on the Southern News Publishing Co. by the New Orleans police at 204 Liberty Building, St. Charles Street, at which time arrested were Louis Steincamp, Joseph Trovato, Ralph Emory of Cicero, Ill., whose father was known to be associated with Al Capone, Anthony Carollo, and Franky Stanton. Do you know about that?

Mr. FOGARTY. From reading it in the newspapers; yes.

Mr. RICE. What do you know about that?

Mr. FOGARTY. Only what I read in the newspapers.

Mr. RICE. Wasn't that a competitive wire service to yours?

Mr. FOGARTY. I refuse to answer that question.

Mr. RICE. What did you read in the papers?

Mr. FOGARTY. About the raid that was made on the place.

Mr. RICE. What did it say?

Mr. FOGARTY. What you just said.

Mr. RICE. What did it say?

Mr. FOGARTY. I don't remember.

Mr. RICE. When did you read it?

Mr. FOGARTY. The day it was published in the paper.

Mr. RICE. How do you remember that but you can't remember whether you had competition at that time?

Mr. FOGARTY. Because you refreshed my mind by just reading it there to me.

Mr. RICE. All right, sir. I will read you a few more things and see if that refreshes your recollection: "That among the equipment found at that time in addition to the ticker was a microphone to telephone race results; that Poretto, in his pleading in a subsequent suit, showed that his telegraph wire was operated through Brooklyn, New York City, Chicago, and St. Louis to New Orleans." Have you ever heard of that wire service?

Mr. FOGARTY. No, I don't remember that.

Mr. RICE. You don't remember that part?

Mr. FOGARTY. No.

Mr. RICE. Now then, the very next day your organization was raided, was it not?

Mr. FOGARTY. I was raided, but I don't remember the day it was raided.

Mr. RICE. August 21, 1946. Who was picked up at that time?

Mr. FOGARTY. I don't know.

Mr. RICE. Were you?

Mr. FOGARTY. I think I was. I think that is the charge we were speaking of here a few minutes ago.

Mr. RICE. All right, sir. Was there any publicity at that time to the effect that the raid on your place was a fake?

Mr. FOGARTY. Was a fake?

Mr. RICE. Was a fake; yes.

Mr. FOGARTY. It couldn't have been much of a fake if I was charged.

The CHAIRMAN. Were you at 425 Campt Street at that time?

Mr. FOGARTY. Yes, sir.

Mr. RICE. Is that where you are now?

Mr. FOGARTY. That is right.

Mr. RICE. I will read you an excerpt from a newspaper of January 18, 1951, referring to this event: "That on August 1946 following police raids on Fogarty's and Poretto's establishment, a man named Waterman charged that the mayor and the police had favored Fogarty over Poretto in the raids and that the raid on Fogarty's place was a fake." Did you ever hear that before?

Mr. FOGARTY. I believe I remember reading something similar to that.

Mr. RICE. Was it a fake?

Mr. FOGARTY. How could it be a fake when I was charged in the courts?

The CHAIRMAN. What happened to you? You were arrested? Did you get fined or anything?

Mr. FOGARTY. No; the case is still pending.

Mr. RICE. Nothing ever happened? Did you get your equipment back?

Mr. FOGARTY. Yes.

Mr. RICE. How did that happen?

Mr. FOGARTY. No. From the raid?

Mr. RICE. Yes.

Mr. FOGARTY. No, sir.

Mr. RICE. They still have it?

Mr. FOGARTY. They still have it; the police.

Mr. RICE. You never got it back?

Mr. FOGARTY. No. No, I never did get any of it back. Western Union got their equipment back. What little they took from me was just minor stuff, that I didn't care whether they returned it or not.

Mr. RICE. All right. At that time, the operators of the Southern News were Poretto, Ralph Emory, Frank Coppola, Anthony Carollo, Anthony Marcello, and Joseph Marcello, Jr.

The CHAIRMAN. Do you know that to be true? Did you hear that?

Mr. FOGARTY. No, sir; I don't know anything about what they did; anything about their business. That's their business.

Mr. RICE. Now, within a few months, the service which was being received by that outfit was transferred to 117 Huey P. Long Avenue, Gretna.

Mr. RICE. From the Southern News Publishing Co.

Mr. FOGARTY. [Laughs.]

The CHAIRMAN. Ask him if he knows.

Mr. RICE. What do you know about that?

Mr. FOGARTY. I don't know anything about it.

Mr. RICE. There has been testimony here this afternoon from Western Union that for a time they operated at the St. Charles Street address, Liberty Building, and then transferred the service to 117 Huey P. Long Avenue. You have an operation there, do you not?

Mr. FOGARTY. I refuse to answer that for fear it may incriminate me.

The CHAIRMAN. Let's get the place where we are talking about. He has an operation where?

Mr. RICE. 117 Huey P. Long Avenue.

The CHAIRMAN. Gretna?

Mr. FOGARTY. I refuse to answer the question for fear it may incriminate me.

Mr. RICE. Don't you lease space there?

Mr. FOGARTY. I refuse to answer that question.

Mr. RICE. That on or about December 1946 there was either a muscling or forcing into your organization by this outfit, resulting in a merger, and thereafter the interest in your organization was Fogarty, 25 percent, Anthony Marcello 37½ percent, and Joseph Marcello 37½ percent. Is that right?

Mr. FOGARTY. I refuse to answer that question.

Mr. RICE. What do you know about that?

Mr. FOGARTY. I refuse to answer that question for fear it may incriminate me.

Mr. RICE. Anything at all?

The CHAIRMAN. Now, Mr. Rice, apparently what you are trying to bring out by these questions is that Mr. Fogarty and his son, in the Daily Sports News, had the Continental, and about that time Poretto and Carollo and Marcello et al, formed the—what is the name of the other one? Southern News?

Mr. RICE. Southern News.

The CHAIRMAN. Southern News. They had a place at Gretna, whatever that address was.

Mr. RICE. 117 Huey P. Long.

The CHAIRMAN. 117 Huey P. Long. First the Southern Sports News was raided and then shortly after that—that was in 1946, was it?

Mr. RICE. Yes.

The CHAIRMAN. Shortly after that, why, Mr. Fogarty's place was raided, and then there came about a combined operation at 117 Huey Long Avenue, Gretna, composed of Fogarty, Anthony and Joseph Marcello. Is that what you are asking the witness about?

The CHAIRMAN. That is the story.

Mr. FOGARTY. You want me to answer that?

Mr. RICE. Would you like to tell us about that?

Mr. FOGARTY. I refuse to answer that question for fear it may incriminate me.

Mr. RICE. What is the number of your telephone at home?

Mr. FOGARTY. University 3076.

Mr. RICE. University 3076. Do you also have a telephone, Raymond 2723?

Mr. FOGARTY. No, sir.

Mr. RICE. Does the Daily Sports News have a telephone?



Mr. FOGARTY. Yes, sir. No, not that number. You have the wrong number.

Mr. RICE. What number?

Mr. FOGARTY. Raymond 3723.

Mr. RICE. Raymond 3722. Thank you. It's a transposition in typing. (He does know something.)

Now, sir; do you know Butsy O'Brien, over in Florida?

Mr. FOGARTY. I refuse to answer that question.

Mr. RICE. Have you received person-to-person telephone calls from Butsy O'Brien over in Florida?

Mr. FOGARTY. I refuse to answer that question.

Mr. RICE. Isn't Butsy O'Brien the operator of the Intra-State News, which services the racing news?

Mr. FOGARTY. That, I don't know.

Mr. RICE. Have you ever heard of Butsy O'Brien?

Mr. FOGARTY. I refuse to answer that question.

Mr. RICE. Have you ever talked with Butsy O'Brien on the telephone?

Mr. FOGARTY. I refuse to answer that question.

Mr. RICE. Isn't it a fact that during the time the S. & G. Gambling Syndicate in Miami was cut off from the wire service in February and March of 1949 that you talked with Butsy O'Brien on the telephone about that cut-off?

Mr. FOGARTY. I refuse to answer that question.

Mr. RICE. Isn't it a fact that there was an effort made to receive wire service from your organization into Florida at that time?

Mr. FOGARTY. I refuse to answer that question.

The CHAIRMAN. Well, I think they said they did get it from New Orleans, didn't they?

Mr. RICE. Do you know a man named Eddie Mooney?

Mr. FOGARTY. No, sir; I don't.

Mr. RICE. Isn't it a fact that Eddie Mooney came over from Florida at that time?

Mr. FOGARTY. I don't know Eddie Mooney.

Mr. RICE. Do you have an office in the Balter Building?

Mr. FOGARTY. Yes, sir.

Mr. RICE. What is the number of that?

Mr. FOGARTY. 507.

Mr. RICE. And any other room number? How many rooms do you have?

Mr. FOGARTY. Just two rooms. I have a little anteroom.

Mr. RICE. 506 and 507, are they not?

Mr. FOGARTY. That's right; it's an anteroom.

Mr. RICE. You leased those rooms?

Mr. FOGARTY. Yes.

Mr. RICE. How much do you pay?

Mr. FOGARTY. I don't remember.

Mr. RICE. How much are you paying now?

Mr. FOGARTY. I don't know what the rent is.

Mr. RICE. You don't know what rent you pay at the Balter Building? From whom do you rent?

Mr. FOGARTY. From the Balter Building; Bluford Balter.

Mr. RICE. How often do you pay rent?

Mr. FOGARTY. My boy takes care of that. I don't worry about what the rent is. In fact, I don't know what the amount of the rent is.

Mr. RICE. Is there a man named Marzoni in the Balter Building?

Mr. FOGARTY. Yes.

Mr. RICE. What does he do?

Mr. FOGARTY. He is an auditor.

Mr. RICE. Is he associated with you?

Mr. FOGARTY. No. He works for me. He has several different concerns he works for. I am one of them.

Mr. RICE. He handles your books?

Mr. FOGARTY. Yes, sir.

Mr. RICE. Do you know Eddie Mooney?

Mr. FOGARTY. No, sir.

Mr. RICE. Isn't it a fact that during that cut-off of the wire service in Florida that Mooney came over here and used the telephone in Marzoni's office to call race results to Florida?

Mr. FOGARTY. I never heard of Eddie Mooney in my life.

The CHAIRMAN. Did somebody do that? Do you know?

- Mr. FOGARTY. I don't remember that at all.
- Mr. RICE. Would you say that that did not happen?
- Mr. FOGARTY. I refuse to answer that question.
- The CHAIRMAN. Well, the question is whether somebody got news out of the Daily Sports News and then from this auditor's office called it into Florida?
- Mr. FOGARTY. I refuse to answer that question.
- The CHAIRMAN. Did you get some money from the S. & G. Investment Co., or S. & G. Syndicate in Florida?
- Mr. FOGARTY. I refuse to answer that question.
- Mr. RICE. Have you ever heard of the Bank Club?
- Mr. FOGARTY. I refuse to answer that question.
- Mr. RICE. Isn't it true that the Bank Club is located at 117 Huey P. Long Avenue?
- Mr. FOGARTY. I refuse to answer that question.
- Mr. RICE. In the same building where you have an operation?
- Mr. FOGARTY. I refuse to answer that question.
- Mr. RICE. And that the Bank Club is a gambling casino?
- Mr. FOGARTY. I refuse to answer that question.
- The CHAIRMAN. Well, did you ever hear of the Bank Club?
- Mr. FOGARTY. I refuse to answer that question.
- Mr. RICE. How far is that address from the sheriff's office there?
- Mr. FOGARTY. I don't know. I live in New Orleans. I don't know anything about Gretna.
- Mr. RICE. You don't know where the sheriff's office is in Gretna?
- Mr. FOGARTY. Sure. Everyone that goes to Gretna and sees that knows it's the city hall. It is close to the city hall but how far it is, I don't know.
- Mr. RICE. It's right across the street, isn't it?
- Mr. FOGARTY. I don't know.
- Mr. RICE. Could it be?
- Mr. FOGARTY. I don't know.
- Mr. RICE. Do you go there every day?
- Mr. FOGARTY. No, sir.
- Mr. RICE. How frequently do you go there?
- Mr. FOGARTY. I haven't been in Gretna, probably, in 2 years now.
- Mr. RICE. The Daily Sports News has an office there, does it not?
- Mr. FOGARTY. I refuse to answer that question.
- Mr. RICE. Who is Neuhauser?
- Mr. FOGARTY. That's my sister; Mrs. Neuhauser.
- Mr. RICE. What business do you have with her? What is her first name?
- Mr. FOGARTY. Mrs. Claire Neuhauser.
- Mr. RICE. Where does she live?
- Mr. FOGARTY. On Nelson Street.
- Mr. RICE. What business do you have with her?
- Mr. FOGARTY. The only business I have is when my parents died they left us property, and that—
- Mr. COLEMAN. That is merely a succession.
- Mr. FOGARTY. That is merely a succession. That's all that is.
- Mr. COLEMAN. That is an estate.
- Mr. RICE. Do you receive income from that source?
- Mr. FOGARTY. Yes, sir.
- Mr. RICE. What are the investments which produce this income?
- Mr. FOGARTY. Rent. They are rental properties.
- Mr. RICE. Where is that located?
- Mr. FOGARTY. Different parts of the town. I think there are five or six pieces of property.
- Mr. RICE. Five or six pieces of property.
- Mr. FOGARTY. Small properties; yes.
- Mr. RICE. That was left to you. You inherited it?
- Mr. FOGARTY. Isn't there a copy in the folder I gave you there?
- The CHAIRMAN. Where is the folder you gave us? I haven't seen that.
- Mr. FOGARTY. That's all that it was: a few pieces of property that was left by my father and mother.
- The CHAIRMAN. Is this Daily Sports News a profitable business? You make a good deal of money out of it?
- Mr. FOGARTY. I refuse to answer that question, Senator.

Mr. RICE. Let's see if this refreshes your recollection any. I am reading from a record which shows that in 1940 you were connected with the Crescent City Publishing Co. Is that correct?

(No response.)

Mr. RICE. You then lived at 3507 Nashville Avenue?

Mr. FOGARTY. That is the same apartment. That's a duplex.

Mr. RICE. In 1941 you were connected with Daily Sports News, 507 Balter Building. Is that right?

Mr. FOGARTY. That is right.

Mr. RICE. Now, you purchased news service from the Enterprise Publishing Co. in 1941, paying them \$10,365.48. Is that right?

Mr. FOGARTY. I refuse to answer that question.

The CHAIRMAN. Well, now, I didn't get the difference in the names of these companies. You had Crescent News and then Daily Sports News? Is that all the same? One company went into another?

Mr. FOGARTY. That's right; just a change of name.

Mr. RICE. With whom did you do business in the Enterprise Publishing Co. in 1941 or any other time?

Mr. FOGARTY. I refuse to answer that question.

Mr. RICE. Where was the Enterprise Publishing Co. located?

Mr. FOGARTY. I refuse to answer that question.

Mr. RICE. Was it in Chicago?

Mr. FOGARTY. I refuse to answer that question.

Mr. RICE. In 1941 did you have the following employees: F. R. Stanton?

Mr. FOGARTY. I refuse to answer that question.

Mr. RICE. Beard, Gordon, Mulcara, Gaines, LeGuard, Steincamp, Oakmore, Clement, Wealey, Croninburg?

Mr. FOGARTY. I refuse to answer that question.

Mr. RICE. Do you remember any of those people?

Mr. FOGARTY. I refuse to answer that question.

Mr. RICE. Now, sir, isn't it true that Stanton and Steincamp were later arrested while working for Joe Poretto?

Mr. FOGARTY. I refuse to answer that.

The CHAIRMAN. Did you read that in the newspapers?

Mr. FOGARTY. I can't remember that arrest of 10 years ago. I can't remember 10 years ago, who was raided in a friend's place.

Mr. RICE. The arrest was in 1946?

The CHAIRMAN. Let's put it this way: That some of the employees you had working for you when you were at—before 1946; did they later get arrested or did they later go to work for the Southern Sports News?

Mr. FOGARTY. I refuse to answer that question, Senator.

The CHAIRMAN. All right. Let's go to another witness.

Well, Mr. Coleman, just as the matters stand now, why, we are in difficulty with this witness. You talk it over with him.

Mr. COLEMAN. I will do that, Senator.

The CHAIRMAN. While we are here, if he wants to do something about it, all right. But you remain under subpoena, Mr. Fogarty.

Mr. COLEMAN. You want us back tomorrow?

Mr. RICE. Before he leaves: Has George Reyer ever been on the payroll of Daily Sports News?

Mr. FOGARTY. I refuse to answer that question.

Mr. RICE. How about James Moran, alias James Brocato?

Mr. FOGARTY. I refuse to answer that question.

The CHAIRMAN. Well, here is the question: Did you have different partners after both wire services were closed up and the new business was started than you had before they were closed up?

Mr. FOGARTY. I refuse to answer that question, Senator.

Mr. RICE. Do you know who George Reyer is?

Mr. FOGARTY. Ex-chief of police, New Orleans.

Mr. RICE. What is he doing now?

Mr. FOGARTY. I don't know.

Mr. RICE. Does he have any interest in the Daily Sports News?

Mr. FOGARTY. No, sir.

Mr. RICE. Does he receive money from it?

Mr. FOGARTY. I refuse to answer that.

- Mr. RICE. Has he ever received money from it?
- Mr. FOGARTY. I refuse to answer that question.
- Mr. RICE. He has no present connection?
- Mr. FOGARTY. I refuse to answer that question.
- Mr. RICE. Isn't it a fact he has been receiving a hundred dollars a week from the Daily Sports ever since he left his job with the police department?
- Mr. FOGARTY. I refuse to answer that question.
- The CHAIRMAN. Has he received anything from the Daily Sports?
- Mr. FOGARTY. I refuse to answer that question.
- The CHAIRMAN. Well, Mr. Fogarty, you and your son now have the Daily Sports News?
- Mr. FOGARTY. Yes, sir.
- The CHAIRMAN. His name is Gene. How long have you and your son, Gene, had the Daily Sports News?
- Mr. FOGARTY. I can't remember that.
- The CHAIRMAN. That is, how long has it been since you had some other partners in there with you?
- Mr. FOGARTY. I have never had any other partners. I have always been on my own. I have been a "lone wolf" ever since I have been in the business. I took my boy in with me a few years ago after he married.
- The CHAIRMAN. After your business was closed up and started up again, didn't you have some other partners besides you and Gene?
- Mr. FOGARTY. No, sir.
- The CHAIRMAN. You were the only ones?
- Mr. FOGARTY. Yes, sir.
- The CHAIRMAN. Do you have anybody named Marcello in your business?
- Mr. FOGARTY. I refuse to answer that question.
- The CHAIRMAN. Is Marcello a partner?
- Mr. COLEMAN. Excuse me, sir. (Confers with witness.) All right.
- The CHAIRMAN. Wasn't it true that after you started up business again your son Gene wasn't even in the partnership, for a while?
- Mr. FOGARTY. I think I said that I took him in after he got married. I can't remember just how many years he is in. It's not a very long time.
- The CHAIRMAN. Anyway, after you started up after you were closed down and the wire service started up again, wasn't the partnership you and Anthony Marcello and Joseph Marcello?
- Mr. FOGARTY. I refuse to answer that question.
- The CHAIRMAN. And your son Gene was not even in the partnership?
- Mr. FOGARTY. I refuse to answer that.
- The CHAIRMAN. How did you get the Marcellos out and get Gene in?
- Mr. FOGARTY. I refuse to answer that one.
- The CHAIRMAN. Do they still have any interest in the Daily Sports News?
- Mr. FOGARTY. I refuse to answer that question.
- The CHAIRMAN. Do you know Anthony Marcello?
- Mr. FOGARTY. I refuse to answer that question.
- The CHAIRMAN. Do you know Joseph Marcello?
- Mr. FOGARTY. I refuse to answer that question. There are so many of them.
- The CHAIRMAN. I think there is no use asking him any more questions. It is regrettable that you feel that you can't cooperate with this committee. That will be all, Mr. Coleman.
- Mr. COLEMAN. Are we ordered back tomorrow at 9:30?
- The CHAIRMAN. You are only ordered back if your witness wants to—
- Mr. RICE. Yes.
- The CHAIRMAN. Yes; all right. You are ordered back tomorrow at 9:30. (Witness excused.)

UNITED STATES SENATE,  
SPECIAL COMMITTEE TO INVESTIGATE  
ORGANIZED CRIME IN INTERSTATE COMMERCE,  
New Orleans, La., Friday, January 26, 1951.

The committee reconvened at 9:30 a. m. Friday, January 26, 1951, in room 245, Main Post Office Building, Senator Estes Kefauver, chairman, presiding.

Present: Senator Kefauver.

Also present: Downey Rice, Esq., associate counsel; Alfred M. Klein, associate counsel; George Martin, investigator; and Ralph W. Mills, investigator.

(Represented by Warren O. Coleman, Esq.)

(Mr. Fogarty was previously sworn by the chairman.)



The CHAIRMAN. Mr. Fogarty, when we last talked with you you were going to find out, I believe, who you paid for your wire service. I think we asked you to find that out.

Mr. COLEMAN. I think the question he was to find out was how long it was that he started to purchase from Continental, and he found that out.

The CHAIRMAN. Yes; and if he sometimes—all right, did he find that out?

Mr. FOGARTY. 1939.

The CHAIRMAN. That is when you started with the Continental?

Mr. FOGARTY. That is right.

The CHAIRMAN. Did you also check to see whether it was Continental you paid or whether it was the Illinois Sports News?

Mr. FOGARTY. Continental Press.

The CHAIRMAN. You got it directly from Continental? I mean you paid Continental yourself?

Mr. FOGARTY. Yes, sir.

The CHAIRMAN. And you didn't go through any Illinois Sports News?

Mr. FOGARTY. No, sir.

The CHAIRMAN. Did you know any of the Continental officials: Mr. Tom Kelly?

Mr. FOGARTY. Yes, sir.

The CHAIRMAN. You dealt with him directly?

Mr. FOGARTY. Yes, sir.

Mr. RICE. Did you make some special arrangements? A general method of doing business with Continental, at least in later years, as you undoubtedly very well know that they would furnish distributors, like the Illinois Sport News, or the Howard Publishing Co. in Baltimore, and then these distributors in turn would sell to subdistributors?

Mr. FOGARTY. I had no agreement with Mr. Kelly like that at all.

The CHAIRMAN. You just dealt directly with Continental?

Mr. FOGARTY. That is the reason I bought the service from Continental.

The CHAIRMAN. Did you have a written agreement with them?

Mr. FOGARTY. No, sir.

The CHAIRMAN. Did you ever buy any service from Trans-America?

Mr. FOGARTY. I refuse to answer that question, sir, for fear it may incriminate me.

The CHAIRMAN. You won't answer whether you ever bought any service from Trans-America?

Mr. FOGARTY. No, sir.

The CHAIRMAN. I believe we have already agreed that we understand he is directed to answer?

Mr. COLEMAN. Yes.

The CHAIRMAN. Did you have any dealings with Ralph O'Hara? Do you know Ralph O'Hara, of Chicago, Ill.?

Mr. FOGARTY. I refuse to answer that question.

The CHAIRMAN. Hymie Leven?

Mr. FOGARTY. I don't know him.

The CHAIRMAN. Ray Jones?

Mr. FOGARTY. I don't know him.

The CHAIRMAN. Jack Guzik?

Mr. FOGARTY. I don't know him.

The CHAIRMAN. A fellow named Katz?

Mr. FOGARTY. I don't know him.

The CHAIRMAN. Now how did you arrive at the amount of your contract with Tom Kelly? I mean, did you bargain back and forth or how did you arrive at that?

Mr. FOGARTY. In which way do you mean?

The CHAIRMAN. How did you decide how much you were going to pay him and how did he decide how much he was going to charge you? That is, Mr. Kelly, of Continental Press Service?

Mr. FOGARTY. We decided on a rate per week.

The CHAIRMAN. Did you negotiate with him?

Mr. FOGARTY. It was not a fixed rate.

The CHAIRMAN. Did you negotiate with him in person or by correspondence?

Mr. FOGARTY. In person.

Mr. RICE. You went to Chicago to see him, or he came down here?

Mr. FOGARTY. I went to Chicago to see Mr. Kelley.

The CHAIRMAN. You say it was not a fixed rate?

Mr. FOGARTY. No. Not in this respect: There was a fixed rate for me but if conditions were bad, and I could not meet the obligation weekly, they gave me consideration.

The CHAIRMAN. Do you remember the amount that you were supposed to pay him?

Mr. FOGARTY. I think it was \$4,000 a week.

The CHAIRMAN. Four thousand a week?

Mr. FOGARTY. Yes, sir.

The CHAIRMAN. Did you keep up that sort of payment all along?

Mr. FOGARTY. No; I could not.

The CHAIRMAN. How much did it get down to?

Mr. FOGARTY. Oh, I would say it got down to some weeks I was not able to give him anything.

The CHAIRMAN. Whenever you could you gave him \$4,000 a week?

Mr. FOGARTY. That is right.

The CHAIRMAN. Then when you weren't doing very well, would you call him up and tell him that week you could not pay him four thousand, or how would you do that?

Mr. FOGARTY. I would call him and tell him that things were bad at the present time, and I just wanted relief. He would tell me to do the best I could.

The CHAIRMAN. Mr. Fogarty, did you have some arrangement with him sort of like this: Out of what you took in you and your company or your partnership would keep so much and then you would send him the rest, up to \$4,000 a week? Is that about the way it was?

Mr. FOGARTY. How was that? Explain that over, please.

The CHAIRMAN. That is, did you have an agreement that you would keep a minimum amount, or rather a total amount for yourself or your company and your partnership, and then the rest of it you would send to Mr. Kelly, up to \$4,000 a week? That is, suppose you made \$6,000, you would send him \$4,000?

Well, I don't want you to refuse to answer it if you don't understand it. Let's see if I can make it clear.

With some of the Continental people the agreement was that they would keep a certain amount, say a thousand dollars a week, and send the rest of it to Continental.

Mr. FOGARTY. Oh, no, no, no. This is my business. This is my own business.

The CHAIRMAN. Mr. Kelly and the Continental had no interest in your business?

Mr. FOGARTY. Not one penny.

The CHAIRMAN. And was this arrangement ever changed with Continental? Did—it carried right on through that way all along? I mean up to the present time?

Mr. FOGARTY. That is right.

The CHAIRMAN. Did they ever send people down to try to help you build up the business or see what the trouble was?

Mr. FOGARTY. No, sir.

The CHAIRMAN. You just run it as your own?

Mr. FOGARTY. That is right.

The CHAIRMAN. All right. Do you have any questions?

Mr. RICE. Yes, sir.

Did they ever send any inspectors down to determine the extent of the business you were doing?

Mr. FOGARTY. No.

Mr. RICE. Austin O'Malley ever come down?

Mr. FOGARTY. No, sir.

Mr. RICE. John Scanlon? Do you know John Scanlon? Do you know Austin O'Malley?

Mr. FOGARTY. No, sir.

Mr. RICE. Do you know John Scanlon?

Mr. FOGARTY. No, sir.

Mr. RICE. Are you positive about that?

Mr. FOGARTY. Positive.

Mr. RICE. What is the amount you pay weekly now to Continental?

Mr. FOGARTY. I don't know.

Mr. RICE. You don't know what you are paying now?

Mr. FOGARTY. I refuse to answer that question.

Mr. COLEMAN. If you don't know say you don't know.

Mr. FOGARTY. I don't know, and I refuse to answer it.

Mr. RICE. It would appear he has waived his privilege in indicating he does do it. He says he doesn't know. He is not refusing; he just don't know.

Mr. RICE. You take the position you don't know what you are paying for Continental per week?

Mr. FOGARTY. I do.

Mr. RICE. And that is your business?

Mr. FOGARTY. That is my business.

Mr. RICE. What is the closest you can come?

Mr. FOGARTY. I don't know.

Mr. RICE. Can you come within \$5,000?

Mr. FOGARTY. I don't know.

Mr. RICE. You don't know.

Mr. FOGARTY. That is right. I refuse to answer it.

Mr. RICE. What was the last payment that you made?

Mr. FOGARTY. I can't remember.

Mr. COLEMAN. Can I ask him a question?

Mr. FOGARTY. Yes.

Mr. COLEMAN. Have you been ill lately?

Mr. FOGARTY. Yes.

Mr. COLEMAN. Has your son been running some of your business?

Mr. FOGARTY. Yes, sir.

Mr. COLEMAN. All right.

Mr. RICE. All right, sir.

The CHAIRMAN. You remain under subpena, Mr. Fogarty. In case we want you we will notify you or your lawyer.

Mr. FOGARTY. O, K., sir.

(Witness excused.)

## ANNEX II

The committee has received the following memorandum from its associate counsel, which sets forth the legal opinion of its staff with reference to the contempts committed by John J. Fogarty.

FEBRUARY —, 1951.

Memorandum to Senator Estes Kefauver, chairman, re contempt of John J. Fogarty (S. Res. 81).

I have examined the record of the testimony of John J. Fogarty in addition to hearing it at the time it was given, and it is my opinion, which has previously been conveyed to the committee, that the refusal by John J. Fogarty to produce books and records, and to answer questions was contemptuous of the United States Senate and its Special Committee To Investigate Organized Crime in Interstate Commerce.

As associate counsel of the committee, with the advice and concurrence of the committee's legal staff, I have advised the committee and now certify that the contempts complained of are, in my opinion, punishable as a matter of law. In those instances where the witness asserted a claim of privilege, it is my opinion that the claim was not made in good faith inasmuch as there was no reasonable relationship between the questions asked and a line of proof which might incriminate the witness under any Federal statute.

In certifying contempt proceedings, this committee and its counsel have carefully distinguished between refusals to answer based on an arbitrary or fanciful claim of privilege, from refusals to answer questions where a claim of privilege might be raised with even a minimum possibility that the witness might be incriminated under any of the laws of the United States.

DOWNEY RICE, Associate Counsel.

